

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRUSTEES OF THE UNITED HERE  
NATIONAL HEALTH FUND, et al.,

Plaintiff,

-against-

THE NEW MAYFLOWER CORPORATION,

Defendant.  
-----X

08 Civ. 03788 (DLC) (DF)

**SCHEDULING ORDER  
FOR DAMAGES INQUEST**

**DEBRA FREEMAN, United States Magistrate Judge:**

This matter having been referred to me to conduct an inquest and to report and recommend concerning Plaintiffs' damages, it is hereby ORDERED that:

1. Plaintiffs' shall file and serve on Defendant (with a courtesy copy to my chambers) Proposed Findings of Fact and Conclusions of Law concerning damages no later than August 22, 2008. Plaintiffs shall include with such service a copy of this Order.

2. Plaintiffs' Proposed Findings should specifically tie the proposed damages figure(s) to the legal claim(s) on which liability has now been established; should demonstrate how Plaintiffs have arrived at the proposed damages figure(s); and should be supported by an affidavit attaching as exhibits and containing an explanation of any documentary evidence that helps establish the proposed damages.

3. Defendant shall submit its response, if any, to Plaintiffs' submission no later than September 22, 2008. IF DEFENDANT (1) FAILS TO RESPOND TO PLAINTIFFS' SUBMISSIONS, OR (2) FAILS TO CONTACT MY CHAMBERS IN WRITING BY September 22, 2008, TO REQUEST AN IN-COURT HEARING, IT IS MY INTENTION TO ISSUE A REPORT AND RECOMMENDATION CONCERNING DAMAGES ON THE BASIS OF PLAINTIFFS' WRITTEN SUBMISSIONS ALONE WITHOUT AN IN-COURT HEARING.

Copies mailed 7-23-08  
Chambers of U.S. Magistrate Judge Freeman

*See Action S.A. v. Marc Rich & Co.*, 951 F.2d 504, 508 (2d Cir. 1991) (Fed. R. Civ. P. 55(b)(2) “allows but does not require . . . a hearing”); *Fustok v. ContiCommodity Servs. Inc.*, 873 F.2d 38, 40 (2d Cir. 1989) (“[I]t [is] not necessary for the District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in a default judgment.”).

Dated: New York, New York  
July 23, 2008

SO ORDERED

  
DEBRA FREEMAN  
United States Magistrate Judge

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